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Convention on the Elimination of All Forms of Discrimination against Women

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**Committee on the Elimination of Discrimination against Women**
**Twenty-seventh session**
3-21 June 2002
Item 5 of the provisional agenda*
**Implementation of article 21 of the Convention on the Elimination of All Forms of Discrimination against Women**

# Report provided by specialized agencies of the United Nations on the implementation of the Convention in areas falling within the scope of their activities

## Note by the Secretary-General**

**Addendum**

## International Labour Organization

1. On behalf of the Committee, on 17 April 2002, the Secretariat invited the International Labour Organization (ILO) to submit to the Committee a report on information provided by States to ILO on the implementation of article 11 and related articles of the Convention on the Elimination of All Forms of Discrimination against Women, which would supplement the information contained in the reports of the States parties to the Convention to be considered at the twenty-seventh session.

2. Other information sought by the Committee refers to activities, programmes and policy decisions undertaken by ILO to promote the implementation of article 11 and related articles of the Convention.

3. The report annexed hereto has been submitted in compliance with the Committee's report.

* CEDAW/C/2002/II/1.

** The document was submitted late to the conference services without the explanation required under paragraph 8 of General Assembly resolution 53/208 B, by which the Assembly decided that, if a report is submitted late, the reason should be included in a footnote to the document.

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# Annex

## Report of the International Labour Organization to the Committee on the Elimination of Discrimination against Women at its twenty-seventh session

## Contents


| Part | | Paragraphs | Page |
|---|---|---|---|
| I. | Introduction | 1–4 | 3 |
| II. | Indications concerning the situation of individual countries | 5–49 | 4 |
| | Belgium | 5–13 | 4 |
| | Denmark | 14–20 | 6 |
| | Tunisia | 21–27 | 7 |
| | Ukraine | 28–36 | 8 |
| | Zambia | 37–49 | 10 |
| III. | Additional information | 50–52 | 13 |

# I. Introduction

1. The provisions of article 11 of the Convention on the Elimination of All Forms of Discrimination against Women are dealt with in a number of International Labour Organization (ILO) conventions. Of the 184 conventions adopted so far, the information in the present report relates principally to the following:

- Equal Remuneration Convention, 1951 (No. 100), which has been ratified by 156 member States;
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111), which has been ratified by 154 member States;
- Workers with Family Responsibilities Convention, 1981 (No. 156), which has been ratified by 33 member States.

2. Where applicable, reference is made to a number of other Conventions, which are relevant to the employment of women, including:

*Forced labour*

- Forced Labour Convention, 1930 (No. 29)
- Abolition of Forced Labour Convention, 1957 (No. 105)

*Child labour*

- Minimum Age Convention, 1973 (No. 138)
- Worst Forms of Child Labour Convention, 1999 (No. 182)

*Freedom of association*

- Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)
- Right to Organize and Collective Bargaining Convention, 1949 (No. 98)

*Employment policy*

- Employment Policy Convention, 1964 (No. 122)
- Human Resources Development Convention, 1975 (No. 142)

*Maternity protection*

- Maternity Protection Convention, 1919 (No. 3)
- Maternity Protection Convention (Revised), 1952 (No. 103)

*Night work*

- Night Work (Women) Convention (Revised), 1948 (No. 89) (and Protocol)
- Night Work Convention, 1990 (No. 170)

*Underground work*

- Underground Work Convention, 1935 (No. 45)

*Part-time work*

- Part-Time Work Convention, 1994 (No. 175)

*Home work*

- Home Work Convention, 1996 (No. 177)

3. The application of ratified conventions is supervised in ILO by the Committee of Experts on the Application of Conventions and Recommendations (CEACR), a body of independent experts from around the world, which meets annually. The information submitted in part II of the present report consists of observations and direct requests made by the Committee. Observations are comments published in the CEACR annual report — produced in English, French and Spanish — which are submitted to the International Labour Conference. Direct requests (produced in English and French — and in the case of Spanish-speaking countries, also in Spanish) are not published in book form, but are made public. At a later date, they are published on the ILO database of supervisory activities, ILOLEX (available online or on CD-ROM).

4. In addition, part III includes additional information on the countries concerned.

# II. Indications concerning the situation of individual countries

## Belgium

### Position with regard to ILO conventions

5. Among the relevant ILO conventions, Belgium has ratified convention Nos. 100 and 111. It has also ratified convention Nos. 29, 87, 98, 105, 122 and 138.

### Comments made by the ILO supervisory bodies

6. The pending comments of the ILO Committee of Experts on matters relevant to the Convention relate to the following:

*Convention No. 100*

7. In its 1998 direct request, the Committee noted that a study, commissioned by the Ministry of Employment and Work, showed that from the 141 sectoral job classifications in existence in Belgium, only 16 per cent had an analytical base. The non-analytical classification schemes were not considered to be gender neutral. The study came to the general conclusion that the modernization of sectoral classification schemes was urgently required. The Committee requested the Government to provide information on the manner in which the use of unbiased analytical classification schemes are promoted.

8. The Government's report of 1999 on the Federal Employment Policy indicates that inequality between men and women still exists in relation to remuneration, and

that this is due to a great extent to the classification systems used. The Minister charged with Equality of Opportunities asked the National Labour Council for advice on a series of measures. Social partners undertook to revise job classification systems in sectors where those systems determined unequal remuneration between men and women and to replace them with analytical and gender-neutral ones.

9. *The Government's report on the application of the Convention has been received and was examined by the Committee of Experts at its November/December 2001 session.*

*Convention No. 111*

10. In its 2000 observation, the Committee noted the adoption of the Act of 7 May 1999 on equality of treatment for men and women. It noted with interest the adoption of this new Act, which added several innovations to existing legislation. It noted that the Act incorporated two European directives, on equality of treatment in occupational social security regimes (96/97/CE) and on the burden of proof in cases of discrimination based on sex (97/80/CE). It noted also that the new Act introduced the concept of sexual harassment, that it contained clear definitions of the concepts of "equality of treatment", "direct discrimination" and "indirect discrimination", and addressed the classification of occupations in order to eliminate salary differences between men and women.

11. *The Government's report on the application of the Convention has been received and will be examined by the Committee of Experts at its next session, in November/December 2002.*

*Convention No. 122*

12. In its 1999 observation, the Committee noted that the employment rate had increased from 54.7 per cent in 1990 to around 57 per cent in 1997, due mainly to an increase in employment of women in part-time work. The Government explained that the rate remained below the European average because the post-secondary education rate remained above average and the retirement age was lower. The participation rate was 58.6 per cent in 1990, but had increased to 62.8 per cent in 1996, again due mainly to the increase in women entering the workforce. Although this was below the European average, the Government pointed out that the growth rate was above average. As at 1996, 15.4 per cent of workers were self-employed, and in 1997 14.7 per cent were in part-time employment. The unemployment rate decreased slightly, from 10 per cent in 1994 to 9.2 per cent in 1997. According to Eurostat, unemployment was at 9 per cent as at May 1999. The Committee noted that, according to the Organisation of Economic Cooperation and Development country report for Belgium, women comprised over 80 per cent of part-time workers, and approximately 25 per cent of women worked part-time involuntarily.

13. *The Government's report on the application of the Convention has been received and was examined by the Committee of Experts at its November/December 2001 session.*

## Denmark

### Position with regard to ILO conventions

14. Among the relevant ILO conventions, Denmark has ratified convention Nos. 100 and 111. It has also ratified convention Nos. 29, 87, 98, 105, 122, 138 and 142.

### Comments made by the ILO supervisory bodies

15. The pending comments of the ILO Committee of Experts on matters relevant to the Convention relate to the following:

*Convention No. 100*

16. In its 2000 direct request, the Committee noted with interest the adoption on 30 May 2000 of an Act on Equality between Women and Men (Act No. 388) aimed at mainstreaming the principle of equality into statutory form as a basic element in the promotion of equality. It noted that the new Act replaced the Equal Status Council with a three-tiered structure comprising the Minister of Equality, a research and documentation centre on equality (the Knowledge Centre) and an independent body known as the Equal Status Board.

17. The Committee also noted the existence of a fairly constant wage gap between women and men over the past 15 years (1985-2000). The report on wage differences between men and women co-published by the Ministry of Labour and the Equal Status Council in June 2000 attests to this fact, as denoted in the various tables included in the report, for example, the hourly wage rate in the private sector in 1996 was 153.2 kroner for men and 126.2 kroner for women (a difference of 20.9 per cent), while in the public sector it was 147.0 kroner for men and 132.8 kroner for women (a difference of 10.7 per cent). The Committee noted that, after taking into account factors such as seniority, educational level, professional experience and use of leave schemes, the only explanation for the remaining wage differential was gender. It also noted that the Ministry of Labour had launched an initiative to analyse the importance of negotiation mechanisms for wage differences between men and women as a means of determining which wage factors led to equal pay and which further increased wage differences (Equality at Work, Ministry of Labour, June 1996).

18. Regarding the project on enterprise-based wage fixing, the Committee noted that it had completed its work and had come to the conclusion that there was a tendency towards smaller wage differences between men and women when they were *not* covered by collective agreements, and that both male and female employees not covered by collective agreements received salaries higher than those covered by collective agreements. While noting the reason for lower overall wages, the Committee asked the Government for an explanation as to why a wider wage gap existed between men and women covered by collective agreements. In this respect it noted that, as a result of the last round of collective bargaining conducted in February 2000, the Danish Employers' Confederation (DA) and the Danish Confederation of Trade Unions (LO) had agreed to investigate and monitor equality and non-discrimination more closely, and that a report of their work would be presented by March 2002.

19. The Committee noted that in June 2000 the Ministry of Labour initiated a job evaluation project in order to study the effects of the job evaluation systems currently in use on wage differences and the impact of job evaluation as an instrument to achieve pay equity. It noted that the project would also attempt to address the need to ensure that job evaluations were undertaken in a gender-neutral manner, balancing the strengths and values of the tasks performed by men and women. In addition, the project would examine the different components of equal pay and the criteria used to classify jobs, given that a systematic comparison of jobs might be a means of defining work of equal value and might thereby become an effective tool for achieving equal remuneration.

*Convention No. 111*

20. In its 2000 direct request, the Committee noted that the rate of unemployment for women was consistently higher than that of men from 1993 to 1999, for example, the rates were 7 per cent and 5.3 per cent respectively for 1999. It noted also that this is the same for women from ethnic minority communities, in particular among women coming from Africa and Asia. Noting the measures taken to strengthen the participation of women in the labour force, including women from different ethnic backgrounds, the Committee asked the Government to continue to provide information on these activities and their impact.

## Tunisia

### Position with regard to ILO conventions

21. Among the relevant ILO conventions, Tunisia has ratified convention Nos. 100 and 111. It has also ratified convention Nos. 29, 87, 89, 98, 105, 138, 142 and 182.

### Comments made by the ILO supervisory bodies

22. The pending comments of the ILO Committee of Experts on matters relevant to the Convention relate to the following:

*Convention No. 100*

23. In a 1998 direct request, the Committee requested the Government to transmit, as soon as they are available, statistical data on the distribution of men and women at the various wage rates, and if possible by occupation, branch of activity, seniority and level of qualifications, as well as the percentage of women public officials in each category from A to D. The Committee also requested information on the remuneration rates and occupational classifications determined by the committees on agricultural work set up under decree No. 2000-1988 of 12 September 2000.

24. *The Government's report on the application of the Convention has been received and was examined by the Committee of Experts at its November/December 2001 session.*

*Convention No. 111*

25. In its direct request of 2000, the Committee noted the high level of illiteracy among girls and women, their low educational level and their low level of participation in the labour market, as well as the occupational segregation they

suffer in vocational training and employment. It requested the Government to indicate the measures taken to promote and ensure the access of women to education, vocational training and employment on an equal footing with men. With regard to the application of the Convention in relation to discrimination on grounds other than sex, the Committee noted that both the Constitution (article 6) and the legislation (Labour Code, conditions of service of the public service, collective labour agreements) prohibited this type of discrimination. It pointed out to the Government that the existence of appropriate national laws and regulations that were in conformity with the Convention was a necessary prerequisite, but was not sufficient in itself for the effective application of the principles set out in the Convention. The Committee therefore requested the Government to indicate the measures taken or envisaged for the *active* promotion of the principles set out in the Convention within the framework of its national policy to combat discrimination.

*Convention No. 122*

26. In its 1999 observation, the Committee noted that the Government intended to develop a database on trends in the labour market and to undertake biannual studies. The Committee hoped that this project would be completed in the near future and looked forward to receiving more detailed information on the trends in employment, unemployment and underemployment, both in the aggregate and as they affect particular categories of workers such as women, youth, older workers and workers with disabilities.

27. *The Government's report on the application of the Convention has been received and was examined by the Committee of Experts at its November/December 2001 session.*

## Ukraine

**Position with regard to ILO conventions**

28. Among the relevant ILO conventions, Ukraine has ratified convention Nos. 100, 111 and 156. It has also ratified convention Nos. 29, 97, 98, 103, 105, 122, 138, 142 and 182.

**Comments made by the ILO supervisory bodies**

29. The pending comments of the ILO Committee of Experts on matters relevant to the Convention relate to the following:

*Convention No. 100*

30. In its 1998 direct request, the Committee recalled that no provision referred to by the Government in respect of remuneration appeared to include the definition of equal remuneration, which was in conformity with the principle of "equal remuneration for men and women workers for work of equal value", as set forth in the Convention. The Committee requested the Government to take the necessary measures to ensure that the principle of equal remuneration was fully applied to the wage as defined in sections 1 and 2 of the Act respecting the payment of wages, namely the basic wage, the additional wage and other incentive and compensatory payments. The Committee reiterated its hope that this principle would be included in

the legislation and, more specifically, in the Labour Code, which was in the drafting stage.

31. The Committee also noted the Government's statement to the effect that private enterprises and organizations themselves established collective agreements fixing wage rates and salary scales depending on the complexity of the work and the skills required, in accordance with the standards and assurances envisaged in the general agreement and sectoral agreements. Insofar as employees of institutions and organizations financed by the State budget are concerned, wage rates are fixed by a decree issued by the Cabinet of Ministers of Ukraine. The Committee requested the Government to provide a copy of the general agreement in its next report as well as copies of the sectoral agreements containing the standards laid down for the conclusion of collective agreements that fix the wage rates and salary scales in private enterprises and organizations, as well as the decree issued by the Cabinet of Ministers fixing the wage rate for workers employed in institutions and organizations financed by the State budget.

32. *The Government's report on the application of the Convention has been received and was examined by the Committee of Experts at its November/December 2001 session.*

*Convention No. 111*

33. The Committee noted that women constituted the overwhelming majority of persons laid off from employment in enterprises and organizations, and that women found it more difficult to find other work and to re-enter the Ukrainian labour market. The Committee reminded the Government that the banning of discrimination was generally insufficient to eliminate it in actual practice and that, therefore, affirmative action measures might be necessary to eliminate de facto inequalities and to enable members of vulnerable groups subject to discrimination to work in all sectors of activity and occupations at all levels of responsibility (see general survey on equality in employment and occupation, 1988, para. 166). In this regard, the Committee noted with interest the measures taken to raise awareness of national legislation and international standards on women's rights, including the Government's joint project with the Office. It also noted with interest the adoption on 8 September 1997 of a National Plan of Action for 1997 to 2000 outlining measures for improving the situation of women, as well as the adoption on 5 March 1999 of declarations setting out the State policy in respect of families and women.

34. The Government indicated that, in 1998, the State Employment Service provided occupational guidance services to 1.8 million people, more than twice the number that utilized such services in 1997. In addition, the Government reported that 105,200 Ukrainian citizens undertook vocational training and rehabilitation courses in 1998, 55 per cent more than in 1997. The Committee noted with interest that 60,300 of these trainees (57 per cent) were women. It further noted the development and introduction of modular vocational training programmes in various regions of Ukraine. The Government was requested to supply information concerning the distribution of men and women and ethnic minorities in the different vocational training programmes offered, including whether any measures had been taken or were contemplated to facilitate the participation of workers with family responsibilities.

35. *The Government's report on the application of the Convention has been received and will be examined by the Committee at its November/December 2002 session.*

*Convention No. 45*

36. In its 1998 direct request, the Committee noted the statement of the Government to the effect that, in accordance with order No. 381 of 27 March 1996 of the Cabinet of Ministers of Ukraine, various measures had been taken to disengage women from underground work and that those measures had been taken by enterprises and monitored by the public authorities. The Committee also noted that there were a total of 1,019 women currently in the mining industry (in engineering, health or social services, or in posts that did not involve manual labour) and a total of 196,100 women in the coal industry. The Committee requested the Government to continue to provide information on progress made on the programme implemented under the above order and on the application in practice of the Convention.

## Zambia

### Position with regard to ILO conventions

37. Among the relevant ILO conventions, Zambia has ratified convention Nos. 100 and 111. It has also ratified convention Nos. 29, 87, 98, 105, 122, 138 and 182.

### Comments made by the ILO supervisory bodies

38. The pending comments of the ILO Committee of Experts on matters relevant to the Convention relate to the following:

*Convention No. 100*

39. In its 1999 direct request, the Committee noted from the statistics compiled by Zambia Consolidated Copper Mines (ZCCM) on the distribution of men and women by skill category as of May 1996 that the very small proportion of women working in the sector were mainly employed at the professional level. The statistics also showed that no women were employed at the managerial level and no male employees are working in the secretarial skill category. The Committee drew the Government's attention to the fact that the situation of women in the labour market, and in particular their concentration in so-called female sectors and occupations, was one of the origins of inequalities in remuneration between men and women. In this connection, the Committee referred to paragraph 6 of the Equal Remuneration Recommendation, 1951 (No. 90), which called for a variety of measures to raise the productive efficiency of women as a means to facilitate the application of the principle of equal remuneration. The Committee noted the Government's statement that in terms of vocational training, vocational guidance and counselling, it was the policy to encourage more and more women to take advantage of the facilities available as a way of raising their productive efficiency. The Committee requested the Government to provide more detailed information on the specific measures taken to increase the access of women to vocational training, vocational guidance and counselling as a means of narrowing the wage gap between men and women. The Committee also underlined the importance of statistical data to assist the Committee

in evaluating the application of the Convention and noted that the establishment of a labour market information system was in progress. It asked the Government to keep it informed on this matter.

40. *The Government's report on the application of the Convention has been received and was examined by the Committee of Experts at its November/December 2001 session.*

*Convention No. 103*

41. In its 1998 direct request, the Committee commented on section 15A(1) of the Employment Act, which, contrary to the terms of the conventions, stipulates that a woman worker must have worked for at least two years before being entitled to maternity leave. Article 3, paragraph 1, of the Convention does not make the entitlement to maternity leave conditional on a minimum period of employment. The Government stated that the country faced many economic and social problems and that the measures was necessary to combat the country's rapid population growth. The Government also considered that the introduction of unconditional maternity leave would inevitably have negative consequences on women's employment prospects. The Committee, while it was aware of the present social and economic situation in the country, drew the Government's attention to the fact that the Government's objective of limiting the birth rate could be achieved by other means, such as education and family planning. In addition, the Committee emphasized that it was precisely to prevent employers from refusing to hire women of childbearing age that the Convention, in its article 4, paragraphs 4 and 8, stipulated that in no case should an employer be individually liable for the cost of benefits due to women employees, and that consequently maternity benefits should be provided either by means of compulsory social insurance or by means of public funds. The Government indicated that it would consider revising the provision in question.

42. The Committee recalled the terms of article 3, paragraphs 2 and 3, of the Convention, and trusted that the Government would introduce a provision for a minimum period of compulsory leave after confinement of at least six weeks. In this regard, the Committee recalled that, if the actual date of confinement was after the presumed date, the prenatal portion of leave must be extended until the actual date of confinement, without reducing the period of compulsory leave to be taken after confinement, in accordance with article 3, paragraph 4, of the Convention.

43. The Committee also recalled that under the terms of article 4 of the Convention, cash benefits must be provided through a compulsory insurance system or from public funds and that employers should in no case be individually liable for the cost of such benefits. The Government stated that, until such time as a general social security scheme was established, employers would continue to pay cash benefits to women workers during their maternity leave if the Government was unable to do so. Commenting on the issue of nursing breaks, the Committee hoped that the Government would be able to take the measures necessary to supplement its national legislation with a provision allowing nursing mothers to take time off work for specified periods, which would be counted as working hours and remunerated accordingly, as required under article 5 of the Convention.

44. With respect to section 15B(1) of the Employment Act, the Government indicated that the provisions of this section ensured that women would not be dismissed for reasons connected with their pregnancy. Recalling that article 6 of the

Convention prohibited the dismissal of a woman worker during her maternity leave, the notification of dismissal of a woman worker during her maternity leave or notification of dismissal at a time such that the notice would expire during the woman's absence on maternity leave, the Committee hoped that the Government would take the measures necessary to bring section 15B(1) of the Employment Act in conformity with the Convention.

45. *The Government's report on the application of the Convention has been received and was examined by the Committee of Experts at its November/December 2001 session.*

*Convention No. 111*

46. In its 1999 direct request, the Committee noted the amendments made to the 1991 Constitution by act No. 18/1996, and particularly the addition of part IX, which includes article 112 (j) establishing the right of every person to fair labour practices, and part XII establishing a Human Rights Commission. The Government had indicated that the Human Rights Commission's functions included the provision of information on the national policy for the promotion of equality of opportunity and treatment. The Committee, however, regretted that the Government had not also used this opportunity to amend article 23, paragraph 4 (c) and (d), of the Constitution, under which the protection against discrimination on grounds of race, tribe, sex, place of origin, marital status, political opinion, colour or creed set out in article 23 of the Constitution did not apply to any law respecting adoption, marriage, divorce, burial, inheritance, etc., or to the customary law of a particular race or tribe. The Committee of Experts noted that the United Nations Human Rights Committee considered, in its concluding observations in 1996 (CCPR/C/79/Add.62, paras. 3 and 9), that the remnants of certain traditions and customs constituted an obstacle to the effective implementation of the International Covenant on Civil and Political Rights, particularly with regard to equality between men and women, and that it expressed its concern over the situation of women who, despite some advances, continue to be de jure and de facto the object of discrimination as regards, among other matters, education and access to work.

47. The Committee took due note of the Government's statement to the effect that vocational training was free of any forms of discrimination prohibited by the Convention. However, the Committee recalled that experience showed that discriminatory practices in respect of training rarely originated in legislative provisions or regulations that were expressly of a discriminatory nature: more commonly it arose out of practices based on stereotypes affecting mainly women or certain disadvantaged or minority groups of society. The Committee also pointed out, according to the information provided in the report, that the implementation of processes of economic liberalization and privatization, in the framework of the structural adjustment programme, had considerably reduced employment opportunities. The Government indicated that this phenomenon had led to increased competition between men and women in the labour market and that only the best trained had access to employment. The Committee therefore requested the Government to indicate the measures taken or envisaged: (a) to establish an information system designed to open a broad range of occupations that could be chosen by girls; and (b) to ensure that guidance tests for the choice of a trade or occupation did not perpetuate stereotypes by placing emphasis on social or cultural factors that were not germane to the qualifications required for a particular job.

48. *The Government's report on the application of the Convention has been received and will be examined by the Committee at its next session, in November/December 2002.*

*Convention No. 138*

49. In its 2000 direct request, the Committee noted that, in the framework of a child policy formulated by the Government, a national programme of action for children had been developed through preventive and protective measures. In particular, it noted that the Government had signed a memorandum of understanding with ILO on the elimination of the worst forms of child labour and had drawn up a number of activities to address the worst forms of child labour. In this context, the Committee noted that a National Steering Committee on child labour and a child unit in the Ministry of Labour had been established. The Committee further noted that mechanisms such as the inter-ministerial committee on child labour were established in order to ensure effective implementation of programmes on economic exploitation and child labour.

## III. Additional information

**Tunisia**

50. The ILO InFocus Programme on Boosting Employment through Small Enterprise Development has recently undertaken a study on "Jobs, Gender and Small Enterprises in Africa and Asia: lessons drawn from Bangladesh, the Philippines, Tunisia and Zimbabwe". The study is published as Small Enterprise Development Working Paper No. 18.

**Zambia**

51. The Employment Act is currently being revised with the assistance of the ILO (see part II concerning Zambia, convention No. 103).

52. The Government has signed a memorandum of understanding with ILO on the elimination of the worst forms of child labour.